

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5485 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

UNION OF INDIA

Versus

CHANDRIKABEN VINODBHAI

Appearance:

MR JC SHETH for Petitioner

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 03/02/97

ORAL JUDGEMENT

Present petition is filed to challenge the order passed by the MACT, Rajkot under section 92A of the old Motor Vehicles Act(M.V. Act for short) and under section 140 of the new M.V.Act. On 13.5.96 the respondent no.1 Chandrikaben Vinodbhai has filed the main claim petition no. 326/95 to get the amount of damages on account of the injuries sustained by her in a accident involving the Motor Vehicle bearing No.GJ.1.V 1188 and the railway engine on the railway crossing. Admittedly in the said

proceedings, present petitioner has contested the claim of the petitioner and contended that the the accident had taken place due to the rash and negligent acts of the the bus driver. It is the contention of the present petitioner that the railway could not be held to be guilty of either rash or negligent act. But at this stage it is not open for the court to go into the question as to whether the applicant is guilty of rash or negligent act or not. The amount is awarded under no fault liability and at the time of awarding no fault liability, the court is not expected to go into the merits. The learned advocate for the petitioner has urged that the respondent no.4 has already deposited the amount awarded under no fault liability and therefore in the circumstances the petitioner could not be held liable to pay the said amount. But merely because one of the original respondents deposits the amount awarded it could be said that other respondents are not liable when the order is passed against all the respondents in the original petition, it is not open to this court at this stage to interfere with the order in view of the nature of the proceedings and the order in question. It is not possible to hold even *prima facie* that there is any illegality or irregularity in passing the order in question so as to interfere with the said order by exercising the discretionary powers under article 226 or 227 of the Constitution of India. The petition therefore, deserves to be rejected. The petition is therefore, rejected. Notice discharged. Interim order granted earlier stands vacated.

(S.D.Pandit.J)